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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,684	03/01/2002	Shlomit R. Edinger	21402-214 CIP (Cura-514	6438

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EXAMINER	
SNEDDEN, SHERIDAN	
ART UNIT	**PAPER NUMBER**
1653	

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,684	EDINGER ET AL.	
	Examiner	Art Unit	
	Sheridan K Snedden	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

4a) Of the above claim(s) *NONE* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-49* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4, 26-29, 38, 41, 48, drawn to a polypeptide of SEQ ID NO: 2, nucleic acid of SEQ ID NO: 1 encoding same and a method of treatment by administration of a polypeptide.

Group II, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 4.

Group III, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 5.

Group IV, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 6.

Group VI, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 8.

Group VII, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 10.

Group VIII, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 12.

Group IX, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 14.

Group X, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 16.

Group XI, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 18.

Group XII, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 20.

Group XIII, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 22.

Group XIV, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 24.

Group XV, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 26.

Group XVI, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 28.

Group XVII, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 30.

Group XVIII, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 32.

Group XIX, claim(s) 1-4, 38, 41, drawn to a polypeptide of SEQ ID NO: 218.

Group XX, claim(s) 5-14, 39, 42, drawn to a nucleic acid of SEQ ID NO: 3 and vector and cell comprising.

Group XXI, claim(s) 5-14, 39, 42, drawn to a nucleic acid of SEQ ID NO: 5 and vector and cell comprising.

Group XXII, claim(s) 5-14, 39, 42, drawn to a nucleic acid of SEQ ID NO: 7 and vector and cell comprising.

Group XXIII, claim(s) 5-14, 39, 42, drawn to a nucleic acid of SEQ ID NO: 9 and vector and cell comprising.

Group XXIV, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 11 and vector and cell comprising.

Group XXVI, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 13 and vector and cell comprising.

Group XXVII, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 15 and vector and cell comprising.

Group XXVIII, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 17 and vector and cell comprising.

Group XXIX, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 19 and vector and cell comprising.

Group XXX, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 21 and vector and cell comprising.

Group XXXI, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 23 and vector and cell comprising.

Group XXXII, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 25 and vector and cell comprising.

Group XXXIII, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 27 and vector and cell comprising.

Group XXXIV, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 29 and vector and cell comprising.

Group XXXV, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 31 and vector and cell comprising.

Group XXXVI, claim(s) 5-14, 39, 42 drawn to a nucleic acid of SEQ ID NO: 217 and vector and cell comprising.

Group XXXVII-LIII, claim(s) 15-17, 40, 43, drawn to an antibody binding polypeptide of any one of SEQ ID NO: 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, OR 218.

Group LIV-LXX, claim(s) 18-21, drawn to a method for determining the presence of a polypeptide of any one of SEQ ID NO: 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, OR 218.

Group LXXI-LXXXVII, claim(s) 24-25, drawn to a method of identifying an agent that binds a polypeptide of any one of SEQ ID NO: 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, OR 218.

Group LXXXVIII-CIII, claim(s) 26-29, 48, drawn to a method of treatment by administration of a polypeptide of any one of SEQ ID NO: 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, OR 218.

Group CIV-CXXI, claim(s) 30-33, drawn to a method of treatment by administration of a nucleic acid of any one of SEQ ID NO: 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, OR 217.

Group CXXII- CXXXVIII, claim(s) 34-37, 49, drawn to a method of treatment by administration with an antibody that binds to any one of SEQ ID NO: 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, OR 218.

Group CXXXIX-CLV, claim(s) 44-45, drawn to a diagnostic method of measuring polypeptide of any one of SEQ ID NO: 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, OR 218.

Group CLVI-CLXXII, claim(s) 46-47, drawn to a diagnostic method of measuring nucleic acid of any one of SEQ ID NO: 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, OR 217.

2. Upon thorough consideration of the claims, the examiner has determined that a lack of unity of invention exists, as defined in Rule 13.

Annex B, Part 1(e), indicates the permissible combinations of different categories of claims. Part 1(e(i)) states that inclusion of an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product is permissible. As such, Group I combines the polypeptide of SEQ ID NO: 2, nucleic acid encoding same and method of using. The remaining Groups are directed toward additional products and methods not permissible for consideration for unity of invention.

3. Additionally, the claims are drawn to a multitude of peptides, nucleic acids encoding and antibodies, each with a unique structure (sequence) and methods of using the products. This constitutes a recitation of an implied, mis-joined Markush group that contains, independent and distinct inventions. Each of the different peptides and methods of use lack the same of corresponding special technical feature because each peptide, nucleic acid and antibody has a unique structural and functional properties.

Advisory Information

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan K Snedden whose telephone number is (703) 305-4843. The examiner can normally be reached on Monday - Friday, 8:30 AM to 5:00 PM.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (703) 308-2923. The fax phone number for regular communications to the organization where this application or proceeding is assigned is (703) 746-3975.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Karen Cochrane Carlson PhD

KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER

SKS
May 17, 2004
SKS